

WTO Electronic Commerce Work Program

The May 1998 WTO ministerial declaration on electronic commerce called for the establishment of a comprehensive work program on the *trade-related* aspects of electronic commerce. An intensive series of expert-level meetings ended successfully on September 25 with agreement on the WTO work program, which is expected to conclude its work by mid-summer 1999.

The program calls for review of the implications of electronic commerce on the work of the General Council, the Councils for Goods, Services and TRIPs and the Committee on Trade and Development (CTD). In recognition of the importance of the private sector's role, the work program will include obtaining information from relevant non-governmental organizations, as well as from intergovernmental bodies (such as WIPO, UNICTRAL, OECD).

The **General Council** will be responsible for coordinating the work, which means that it will monitor the work of other bodies (including those handling government procurement issues) and discuss cross-cutting issues (including the May ministerial decision to not impose customs duties on electronic transmissions).

The **Services Council** will look at the issue of securing access to infrastructure. In addition, the Council will examine the impact of electronic commerce on the key provisions of the General Agreement Trade in Services (GATS). These provisions include Article I on modes of supply (particularly, the relevance of "cross border supply" and "consumption abroad" in the emerging electronic environment), Article VI on domestic regulation and recognition, Article XIV on limited exceptions (including for protecting privacy and public morals) and Articles II and XVII on MFN and national treatment. (The limited exceptions are subject to safeguards that governments do not impose measures that are disguised trade barriers and or that are not arbitrary or discriminatory.)

The **Goods Council** will review how electronic commerce affects market access for information technology products, as well as look at issues concerning valuation, licensing, customs, standards and rule of origin.

The **TRIPs Council** will look at the intellectual property issues associated with electronic commerce, including its implications for protecting and enforcing copyright and trademarks, and for new technologies and access to technology.

Lastly, the **CTD** will review the effects of electronic commerce on developing countries, notably on small- and medium-sized enterprises (SMEs). The Committee will review ways of enhancing the participation of developing countries in electronic commerce and of using information technology to integrate them into the multilateral trading system. In addition, the Committee will examine financial impacts on developing countries and affects on the traditional means of distribution of physical goods.

MINISTERIAL DECLARATION ON ELECTRONIC COMMERCE

Work Program

1.1 The Declaration on Global Electronic Commerce adopted by Ministers at the second session of the Ministerial Conference urged the General Council to establish a comprehensive work program to examine all trade-related issues relating to global electronic commerce, taking into account the economic, financial, and development needs of developing countries, and to report on the progress of the work program, with any recommendations for action, to the third session. The General Council therefore establishes the program for the relevant WTO bodies as set out in paragraphs 2 to 5. Further issues may be taken up at the request of Members by any of these bodies. Other WTO bodies shall also inform the General Council of their activities relevant to electronic commerce.

1.2 The General Council shall play a central role in the whole process and keep the work program under continuous review through a standing item on its agenda. In addition, the General Council shall take up consideration of any trade-related issue of a cross-cutting nature. All aspects of the work program concerning the imposition of customs duties on electronic transmission shall be examined in the General Council. The General Council will conduct an interim review of progress in the implementation of the work program by 31 March, 1999. The bodies referred to in paragraphs 2 to 5 shall report or provide information to the General Council by 30 July 1999.

1.3 Exclusively for the purposes of the work program, and without prejudice to its outcome, the term "electronic commerce" is understood to mean the production, distribution, marketing, sale or delivery of goods and services by electronic means. The work program will also include consideration of issues relating to the development of the infrastructure for electronic commerce.

1.4 In undertaking their work, these bodies should take into account the work of other intergovernmental organizations. Consideration should be given to possible ways of obtaining information from relevant non-governmental organizations.

Council for Trade in Services

2.1 The Council for Trade in Services shall examine and report on the treatment of electronic commerce in the GATS legal framework. The issues to be examined shall include:

- scope (including modes of supply) (Article I);
- MFN (Article II);
- transparency (Article III);
- increasing participation of developing countries (Article IV);
- domestic regulation, standards, and recognition (Articles VI and VII);
- competition (Articles VIII and IX);
- protection of privacy and public morals and the prevention of fraud (Article XIV);
- S market-access commitments on electronic supply of services (including commitments on basic and value added telecommunications services and on distribution services) (Article XVI);
- national treatment (Article XVII);
- S access to and use of public telecommunications transport networks and services (Annex on Telecommunications);
- customs duties;
- classification issues.

Council for Trade in Goods

3.1 The Council for Trade in Goods shall examine and report on aspects of electronic commerce relevant to the provisions of GATT 1994, the multilateral trade agreements covered under Annex 1A of the WTO Agreement, and the approved work program. The issues to be examined shall include:

- market access for and access to products related to electronic commerce;
- S valuation issues arising from the application of the Agreement on Implementation of Article VII of the GATT 1994;
- issues arising from the application of the Agreement on Import Licensing

Procedures;

- customs duties and other duties and charges as defined under Article II of GATT 1994;
- standards in relation to electronic commerce;
- rules of origin issues;
- classification issues.

Council for TRIPs

4.1 The Council for TRIPs shall examine and report on the intellectual property issues arising in connection with electronic commerce. The issues to be examined shall include the implications of electronic commerce for:

- protection and enforcement of copyright and related rights;
- protection and enforcement of trademarks;
- new technologies and access to technology.

Committee for Trade and Development

5.1 The Committee on Trade and Development shall examine and report on the development implications of electronic commerce, taking into account the economic, financial and development needs of developing countries. The issues to be examined shall include:

- effects of electronic commerce on the trade and economic prospects of developing countries, notably of their small- and medium-sized enterprises (SMEs), and means of maximizing possible benefits accruing to them.
- Challenges to and ways of enhancing the participation of developing countries in electronic commerce, in particular as exporters of electronically delivered products: role of improved access to infrastructure and transfer of technology, and of movement of natural persons;
- use of information technology in the integration of developing countries in the multilateral trading system;
- implications for developing countries of the possible impact of electronic commerce on the traditional means of distribution of physical goods;
- financial implications of electronic commerce for developing countries.

